

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILL JOHNSON,
Plaintiff,

CIVIL ACTION NO. 06-CV-11608-DT

vs.

DISTRICT JUDGE ROBERT H. CLELAND

MATI, et al.,
Defendants.

MAGISTRATE JUDGE MONA K. MAJZOUB

/

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO AMEND
COMPLAINT**

This matter comes before the Court on Plaintiff's motion to amend his Complaint filed on September 12, 2006 which he styled as a "Motion to Add Other Defendant Names to Plaintiff's 42 USC 1983." (Docket no. 16). Plaintiff seeks to "add" three of the original Defendants, but he supplies first names for them unlike in his original Complaint and changes the spellings of two of their last names. Plaintiff also seeks to add two new defendants, Dr. Keith Camann and Correctional Medical Services, Inc. *Id.*

The Court ordered Plaintiff to show cause why his Complaint should not be dismissed for lack of service under Fed. R. Civ. P. 4(m). (Docket no. 13). Plaintiff had until September 8, 2006 to do so. (Docket no. 15). On September 12, 2006 he filed this motion to amend his Complaint.

Under Fed. R. Civ. P. 15(a) a party may amend his pleading once as a matter of course at any time before a responsive pleading is served. No Defendant has been served, and therefore no responsive pleadings have been served. Plaintiff's motion to amend his Complaint will therefore be granted. This Court has by separate Report and Recommendation entered contemporaneously with this Order, recommended that Plaintiff's Complaint, now amended Complaint, be dismissed without

prejudice for failure to show exhaustion of administrative remedies. Therefore, the Clerk should not issue new summonses based on the amended Complaint until further order of the Court.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Add Other Defendant Names to Plaintiff's 42 USC 1983 (docket no. 16) be **GRANTED**.

IT IS FURTHER ORDERED that issuance of additional summonses by the Clerk be stayed pending further order of the Court.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 11, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Will Johnson on this date.

Dated: October 11, 2006

s/ Lisa C. Bartlett
Courtroom Deputy